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# UNITED STATES PATENT AND TRADEMARK OFFICE

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 10/774,246 | 02/06/2004 | Eric Sven-Johan Swildens | 60095-0050 | 9105 |

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| EXAMINER |
|---|
| HU, JINSONG |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2154 | |

DATE MAILED: 07/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

| | | Application No. | Applicant(s) | |
|---|---|---|---|---|
| | | 10/774,246 | SWILDENS ET AL. | |
| **Office Action Summary** | | Examiner | Art Unit | |
| | | Jinsong Hu | 2154 | |

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on <u>05 April 2006</u>.

2a)☒ This action is **FINAL.**    2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) <u>1-40</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-40</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All  b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

# DETAILED ACTION

1.      Claims 1-40 are presented for examination. Claims 1, 11, 21 and 31 have been
amended.

## *Claim Rejections - 35 USC § 112*

2.      The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of
> making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the
> art to which it pertains, or with which it is most nearly connected, to make and use the same and shall
> set forth the best mode contemplated by the inventor of carrying out his invention.

3.      Claims 1-40 are rejected under 35 U.S.C. 112, first paragraph, as failing to
comply with the written description requirement.  The claim(s) contains subject matter
which was not described in the specification in such a way as to reasonably convey to
one skilled in the relevant art that the inventor(s), at the time the application was filed,
had possession of the claimed invention.  The specification does not support the newly
added limitation, inter alias, "wherein the customer Web server is a server that is
operated by the customer".

## *Claim Rejections - 35 USC § 102*

4.      The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that
form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by
another filed in the United States before the invention by the applicant for patent or (2) a patent
granted on an application for patent by another filed in the United States before the invention by the
applicant for patent, except that an international application filed under the treaty defined in section
351(a) shall have the effects for purposes of this subsection of an application filed in the United States
only if the international application designated the United States and was published under Article 21(2)
of such treaty in the English language.

5.      Claims 1-9, 11-19, 21-29 and 31-39 are rejected under 35 U.S.C. 102(e) as

being anticipated by Law et al. (US 6,330,602).

6.      Law is a prior art reference cited by applicant on 1449 form, dated to 6/17/04.

7.      As per claim 1, Law teaches the invention as claimed including a machine

implemented method, comprising of providing sending a Web page resident on a

customer Web server to a requesting user, said the Web page including static content

represented by an embedded URL [Fig. 1; col. 1, lines 16-22 & 32-45; col. 7, lines 7-21;

col. 8, lines 9-23]; and wherein the static content is served by a plurality of Web caches

[92, Fig. 9] within a POP server network [col. 8, lines 24-38], wherein the customer Web

server is a server that is operated by the customer [i.e., server providing services to

customer through a proxy server, which is controlled by customer side, col. 8, lines 9-

23]; and wherein the customer is a customer of a service that operates the plurality of

Web caches [col. 8, lines 14-23].

8.      As per claim 2, Law teaches the step of determining traffic loads of a plurality of

customer Web servers using a probe server; selecting the customer Web server from

the plurality of customer Web servers using a DNS server, the customer Web server

having a traffic load more appropriate for a user request

5than traffic loads of other customer Web servers in the plurality of customer Web

servers; and sending the user request for the Web page to the customer web server

[44, 48, Fig. 4; 90, Fig. 9; col. 6, lines 29-35; col. 8, lines 9-13 & 24-51].

9.      As per claims 3-4, Law teaches the traffic loads including latency measurements

between the probe server and the plurality of customer Web servers, and measuring

traffic loads at predetermined intervals [col. 5, lines 30-35; col. 11, lines 8-19].

10.     As per claim 5, Law teaches the step of determining service metrics of the

plurality of Web caches using a probe server; selecting a Web cache from the plurality

of Web caches using a DNS server, the Web cache having service metrics more

appropriate for a user request from the Web page than service

metrics of other Web caches in the plurality of Web caches [col. 8, lines 24-29]; sending

the user request for the static content to the Web cache; and wherein the Web cache

sends the static content to the requesting user [col. 8, lines 29-38].

11.     As per claims 6 and 7, Law teaches the service metrics including metrics

selected from HTTP response time, FTP response time, CPU load, memory load and

the determining service metrics step performed at predetermined intervals [col. 5, lines

34-35].

12.     As per claims 8 and 9, Law teaches the step of determining whether the

requested static content is resident on the Web cache; determining a customer Web

server that has the requested static content when the requested static content is not

resident on the Web cache; wherein the Web cache retrieves the requested static

content from the customer Web server; and storing the requested static content from

the customer Web server on the Web cache [col. 8, lines 14-23].


13.     As per claims 11-19, since they are method claims of claims 1-9, they are

rejected for the same basis as claims 1-9 above.


14.     As per claims 21-29, since they are apparatus claims of claims 1-9, they are

rejected for the same basis as claims 1-9 above.


15.     As per claims 31-39, since they disclose the same steps as claims 1-9 which

performed for different contents [i.e., static and dynamic], they are rejected for the same

basis as claims 1-9 above.


### *Claim Rejections - 35 USC § 103*

16.     The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

17.    Claims 10, 20, 30 and 40 rejected under 35 U.S.C. 103(a) as being unpatentable over Law et al. (US 6,330,602) as applied to claims 1-9, 11-19, 21-29 and 31-39 above.

18.    As per claims 10, 20, 30 and 40, Law teaches the invention substantially as claimed in claim 1. Law does not specifically teach the network of POP servers comprising more than one DNS server. However, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include more than one DNS server in Law's system because doing so would make the system more reliable. One of ordinary skill in the art would have been motivated to modify Law 's system for increasing the reliability of the system.

### Conclusion

19.    Applicant's arguments filed on 4/5/06 for claims 1-40 have been fully considered but they are not deemed to be persuasive.

20.    In the remarks, applicant argued in substance that

(1) Law does not disclose the step of sending a web page resident on a customer web server to a requesting user, the Web page including static content represented by an embedded URL;

(2) Law does not teach the customer Web server [i.e., proxy server] is a server that is operated by the customer; and wherein the customer is a customer of a service that operates the plurality of Web caches [col. 8, lines 14-23];

(3) rejections for dependent claims are improper.

21.     Examiner respectfully traverses applicant's remarks:

A.      As to point (1), applicant fails to consider the teaching of Law's reference for sending the a document from the web server to the request client, the Web page including static content represented by an embedded URL [Fig. 1; col. 1, lines 16-22 & 32-45; col. 7, lines 7-21; col. 8, lines 9-23]. Thus, Law does teach the limitation the claims.

B.      As to point (2), the specification do not disclose the customer Web server is operated by customer, in fact, it pointed out the customer Web server is used for providing static contents to server 290 [spec. par. 72]. Furthermore, proxy server in Law's system has capability for providing cached content and is operated by customer [col. 8, lines 9-23]. Thus, Law still teaches the newly added limitation.

C       As to point (3), the rejections for independent claims are based on the same reason as discussed set forth above and knowledge of one with ordinary skill in the art. Thus, the rejection is proper for the dependent claims.

Accordingly, Law is still a relevant prior art reference.

22.     THIS ACTION IS MADE FINAL. See MPEP §706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

23.    A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

24.    Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Jinsong Hu whose telephone number is (571) 272-3965.

The examiner can normally be reached on 8:00 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, John A. Follansbee can be reached on (571) 272-3964. The fax phone

number for the organization where this application or proceeding is assigned is (571)

273-8300.

Information regarding the status of an application may be obtained from the

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Business Center (EBC) at 866-217-9197 (toll-free).


Jinsong Hu

June 20, 2006

JOHN FOLLANSBEE
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